

THE HONORABLE BARBARA J. ROTHSTEIN



01-MD-01407-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re: PHENYLPROPANOLAMINE (PPA))
PRODUCTS LIABILITY LITIGATION)

This document relates to)

The Cases Listed on Exhibit A)

V.) No. MDL 1407

BAYER CORPORATION, ET AL)

**ORDER ON MOTION OF DEFENDANT BAYER CORPORATION
FOR ADDITIONAL REPRESENTATION**

Defendant Bayer Corporation filed a motion for authority to obtain additional representation in cases in which the state of plaintiff's residence, ingestion, injury, or treatment is different from the transferor court state. The Court has reviewed the motion and finds that it is well-taken and should be granted. The Court finds, determines and adjudicates as follows:

1. The cases on Exhibit A were filed in states which have no apparent connection to the facts from which the claim arose. Many of the cases originally

were filed as multi-plaintiff cases, then severed pursuant to CMO 15. Exhibit A identifies, to the extent known from pleadings and discovery to date, the state in which each plaintiff resides, the state in which she allegedly ingested a PPA-containing product, the state in which she allegedly was injured, and state in which she was treated. In every case identified on Exhibit A, the plaintiff resides in a state other than the state in which suit was filed. In most cases, ingestion, injury, and treatment, and in fact, all case-specific events, occurred in state(s) other than the state in which suit was filed.

2. JPML Rule 1.4 provides, with respect to representation in transferred actions, the following:

Any attorney of record in any action transferred under Section 1407 may continue to represent his or her client in any district court of the United States to which such action is transferred. Parties to any action transferred under Section 1407 are not required to obtain local counsel in the district to which such action is transferred.

This rule contemplates continued representation by transferor court counsel in the transferee court, but it does not address appearance of other counsel not authorized to practice in the transferee court.

3. This Court has ordered that case-specific discovery of plaintiffs occur prior to remand. See CMO's 1, 6, 10, 19. In the cases listed in Exhibit A and similar cases, it is unnecessarily costly and inconvenient for the parties to utilize counsel from the transferor court state to collect records and take discovery in the distant states in which the records and witnesses are located. In many cases venue in the transferor court is improper or inconvenient, and parties subsequently may seek

transfer pursuant to 28 U.S.C. §1404, §1406, FRCP 12(b)(3), or other applicable rule or statute. *See Lexacon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

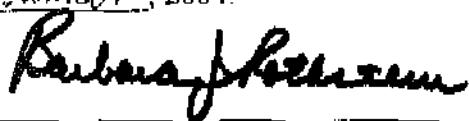
4. Permitting additional representation is well within this Court's discretion.

We point out that transfer under Section 1407 has the salutary effect of placing all actions in this docket before a single judge who can formulate a pretrial program that: 1) allows discovery with respect to any non-common issues to proceed concurrently with discovery on common issues [cite omitted]; and 2) ensures that pretrial proceedings will be conducted in a manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties.

Transfer Order, *In Re Phenylpropanolamine (PPA) Products Liability Litigation* (Jud.Pan.Mul.Lit. August 28, 2001). *See also In re Showa Denko K.K.L. Tryptophan Products Liability Litigation*, 953 F.2d 162, 165 (4th Cir. 1992) (§1407 transferee court has broad discretion in coordinating and administering its cases).

5. In order to achieve efficiencies and to avoid unnecessary cost and inconvenience, the Court hereby orders that defendant Bayer Corporation is authorized to utilize, in addition to counsel in the transferred case who may continue to represent it in the transferee court, counsel in the state of plaintiff's residence, state of ingestion, state of injury, and/or state of treatment, in the cases on Exhibit A and any other case in which the state of plaintiff's residence, ingestion, injury, or treatment is different from the transferor court state. Such representation is permitted in such cases notwithstanding that such counsel are not authorized to practice before the transferee court.

SO ORDERED, this 10th day of November, 2004.



UNITED STATES DISTRICT JUDGE

Exhibit A

#	Case Name	MFC #	Plaintiff's Last Name	Plaintiff's First Name	Plaintiff's Address	Plaintiff's Residence City/State	Purchase Date	Purchase Location	Injury Location	Injuries Sustained
1	Archer, Linda	04-0059	SD Miss.	N	Lexington, MS	Chicago, IL	Unknown	Chicago, IL	Chicago, IL	Maywood, IL; Oak Park, IL
2	Arias, Adalgiza	03-0218	D NJ	N	Orlando, FL	Orlando, FL	Orlando, FL	Orlando, FL	Orlando, FL	Orlando, FL
3	Avery, Wesley Paul	04-2337	D Minn.	N	St. Louis, MO	St. Louis, MO	St. Louis, MO	St. Louis, MO	St. Louis, MO	St. Louis, MO
4	Michalec, Bernard	03-3302 (03-2492)	SD Miss.	Y	Satsuma, AL	Satsuma, AL	Unknown	Unknown	Satsuma, AL	Satsuma, AL
5	Bradshaw, Joyce	03-3001 (03-2492)	SD Miss.	Y	Findlay, OH	Findlay, OH	Unknown	Findlay, OH	Findlay, OH	Findlay, OH; Lima, OH
6	Broxton, Willie	03-3041 (03-2486)	SD Miss.	Y	Mobile, AL	Mobile, AL	Unknown	Unknown	Mobile, AL	Mobile, AL
7	Buchanan, Robert	03-3111 (03-2486)	SD Miss.	Y	Mobile, AL	Mobile, AL	Unknown	Unknown	Mobile, AL	Mobile, AL
8	Byrd, Janice	04-1136	D Minn.	N	Houston, TX	Houston, TX	Houston, TX	Houston, TX	Houston, TX	Houston, TX
9	Cade, Ethel	04-784 (04-399)	SD Miss.	Y	Thomaston, AL	Thomaston, AL	Unknown	Unknown	Thomaston, AL	Linden, AL
10	Cappellino, Joseph	03-0456	WD Pa.	N	Goodyear, AZ	Franklin Square, NY	Franklin Square, NY	Franklin Square, NY	Franklin Square, NY	Franklin Square, NY
11	Clark, George	03-0458	WD Pa.	N	Lebanon, MO	Barefoot Bay, FL	Barefoot Bay, FL	Barefoot Bay, FL	Barefoot Bay, FL	Sebastian, FL
12	Davenport, Vera	03-0453	WD Pa.	N	Sheldon, SC	Goose Creek, SC	Goose Creek, SC	Charleston, SC	Charleston, SC	Charleston, SC
13	Davis, Kirby	03-3875	ND Fla.	N	Laurel, MS	Laurel, MS	Laurel, MS	Laurel, MS	Laurel, MS	Hattiesburg, MS;
14	Dawkins, Leslie (obo Helen Dawkins)	04-785 (04-399)	SD Miss.	Y	Auburn, AL	Bessemer, AL	Birmingham, AL	Unknown	Bessemer, AL	Birmingham, AL
15	Decora, Roger	03-0868	D NJ	N	Box Elder, MT	Box Elder, MT	Havre, MT	Montana	Havre, MT	Rocky Boy, MT
16	Delaughter, Bobby	03-3877	ND Fla.	N	Brookhaven, MS	Brookhaven, MS	Natchez, MS	Unknown	Counce, TN	Conith, MS; Jackson, MS
17	Ducker, Sandra	03-3303 (03-2492)	SD Miss.	Y	LaRue, TX	Phelan, CA	Phelan, CA	Phelan, CA	Victorville, CA	Victorville, CA
18	Dumas, Eamestine (obo Christeen Davis)	03-3061 (03-2492)	SD Miss.	Y	Gainsboro, AL	Thomasville, AL	Unknown	Thomasville, AL	Mobile, AL	Mobile, AL

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Exhibit A

	Case Name	MET #	Primary Court	Secondary Court	Current Residence	Past Address	Current Residence	Purchase Date	Location	Primary Location	Secondary Location
19	Eddie, Valerie	03-0443	WD Pa.	N	Pennington, AL	Unknown	Unknown	Unknown	York, AL Pennington, AL; Meridian MS	Meridian, MS	
20	Farey, Earl	03-0876	D NJ	N	Clifton, NJ	Clifton, NJ	Troy, NY or Menands, NY or Watervliet, NY	Unknown	NY	Troy, NY	
21	Faulk, Michael	03-3222 (03-2724)	SD Miss. (03-2724)	Y	Hanson, KY	KY	Unknown	Unknown	Hampton, KY KY	Madisonville, KY	
22	Fish, Janet	03-3217 (03-2724)	SD Miss. (03-2724)	Y	Yukon, OK	Yukon, OK	Unknown	Unknown	Yukon, OK	Oklahoma City, OK	
23	Ford, Mabel L.	04-393	SD Miss. (04-399)	N	Moss Point, MS	Indianapolis, IN	Indianapolis, IN	Indianapolis, IN	Indianapolis, IN IN	Indianapolis, IN	
24	Frownier, Martha	04-788	SD Miss. (04-399)	Y	Jackson, AL	No PFS	No PFS	No PFS	No PFS	No PFS	
25	Geraci, Adam	03-3110 (03-2486)	SD Miss. (03-2486)	Y	St. Bernard, LA	St. Bernard, LA	Unknown	St. Bernard, LA LA	St. Bernard, LA LA	Chalmette, LA	
26	Greene, Delores	03-0446	WD Pa.	N	Hollywood, FL	Miami, FL	Miami, FL	Miami, FL	Ft. Lauderdale, FL	Hollywood, FL	
27	Grimes, Dulce (obo Elba Zambrano)	03-3049 (03-2492)	SD Miss. (03-2492)	Y	Tallahassee, FL	West Palm Beach, FL	West Palm Beach, FL	West Palm Beach, FL	West Palm Beach, FL	West Palm Beach, FL	
28	Hall, Clara De'Andre Hall)	04-543	D Minn.	N	Montgomery, AL	Montgomery, AL	No PFS	No PFS	Montgomery, AL	Montgomery, AL	
29	Hartsock, Sandra	03-0817	D NJ	N	Mosinee, WI	Mosinee, WI	Wausau, WI	Mosinee, WI	Mosinee, WI; Mosinee, WI; and Marshfield, WI	Mosinee, WI	
30	Henry, Vern	01-1878	D NJ	N	El Dorado, AR	El Dorado, AR	El Dorado, AR	El Dorado, AR	Smackover, AR	Little Rock, AR	
31	Hillard, Raymond	03-0872	D NJ	N	Prichard, AL	Chula Vista, CA	Chula Vista, CA	Chula Vista, CA	San Diego, CA	National City, CA	
32	Holt, Colleen	04-1361	ND Miss.	N	Bruce, MS	Cypress, TX	Houston, TX	Unknown	Houston, TX	Houston, TX	
33	Howard, Cornelius	04-790 (04-399)	SD Miss. (04-399)	Y	Marion, AL	Marion, AL	Marion, AL	Marion, AL	Marion, AL	Selma, AL	

Exhibit A

Case Name	DOB	Transferor	Transferred	Plaintiff	Court	Residence at Time of Injury	Purchased Location	Injurious Location	Location	Fraudulent Locations
34 Jackson, J'Reetta (obo Cynthia Hedgerman)	03-3232 (03-2710)	ND Miss.	Y	Mesquite, TX	Dallas, TX	Unknown	Dallas, TX	Dallas, TX	Dallas, TX	
35 James, Renita	03-3214 (03-2724)	SD Miss.	Y	St. Paul, MN	Memphis, TN	Memphis, TN	Memphis, TN	Memphis, TN	Memphis, TN	Memphis, TN
36 Johnson, Costa	03-0468	WD Pa.	N	Yemassee, SC	Yemassee, SC	Yemassee, SC	Yemassee, SC	Yemassee, SC	Beaufort, SC	
37 Kennedy, Charles	03-3296 (02-2486)	SD Miss.	Y	Gretna, LA	Gretna, LA	Unknown	Gretna, LA	Gretna, LA	Jefferson, LA	
38 Knight, Angela	02-2061	D DC	N	Craigsville, VA	Craigsville, VA	Staunton, VA	Craigsville, VA	Craigsville, VA	Fishersville, VA, Churchville, VA, Charlottesville, VA; Staunton, VA; Craigsville, VA	
39 Knight, Jane (Estate of Juanita Lancaster)	03-0454	WD Pa.	N	Sisterville, WV	New Martinsville, WV	Sisterville, WV	Sisterville, WV	Sisterville, WV	New Martinsville, WV	
40 Leamon, Barbara	03-0620	D NJ	N	Greenville, SC	Greenville, SC	Greenville, SC	Greenville, SC	Greenville, SC	Greenville, SC	
41 Leja, Juan	03-3467	SD Tex.	N	Rio Hondo, TX	Wapello, IA	Burlington, IA	Wapello, IA	Wapello, IA	Wapello, IA	
42 Lewis, Willie (04-399)	04-767	SD Miss.	Y	Selma, AL	Selma, AL	Selma, AL	Selma, AL	Selma, AL	Selma, AL	
43 Lindsey, David (Estate of Linda Lindsey)	03-0874	D NJ	N	Phenix City, AL	Phenix City, AL	Unknown	Phenix City, AL	Phenix City, AL	Phenix City, AL	
44 Lockett, Johnnie (04-399)	04-0768	SD Miss.	Y	Aliceville, AL	Aliceville, AL	Aliceville, AL	Aliceville, AL	Aliceville, AL	Aliceville, AL	Carrollton, AL; Tuscaloosa, AL
45 Lockwood, Bruce	03-3210 (03-2724)	SD Miss.	Y	Newburn, NC	Jamestown, NY	Unknown	Jamestown, NY	Jamestown, NY	Jamestown, NY	
46 Logan, Walter (04-399)	04-769	SD Miss.	Y	Setma, AL	Setma, AL	Setma, AL	Setma, AL	Setma, AL	Setma, AL	

Exhibit A

#	Case Name	Mot. I	Transcript Comm.	Covered Case No.	Plaintiff's Current Residence	Defendant's Residence	Purchase Location	Ingestion Location	Infant Location	Treatment
47	Long, Ora	04-770 (04-399)	SD Miss.	Y	Tuscaloosa, AL	Tuscaloosa, AL	Tuscaloosa, AL	Tuscaloosa, AL	Tuscaloosa, AL	
48	Lussier, Robert	03-3031 (03-2478)	ND Miss.	Y	Mesa, AZ	Glendale, AZ	Phoenix, AZ	Unknown	Phoenix, AZ	Phoenix, AZ
49	Mallard, Susie	03-2221 (03-2482)	SD Miss.	Y	New Orleans, LA	New Orleans, LA	New Orleans, LA	New Orleans, LA	New Orleans, LA	New Orleans, LA
50	McBride II, Bernell	03-0447	WD Pa.	N	Dayton, OH	West Covina, CA	Covina, CA	West Covina, CA	Los Angeles, CA	Baldwin Park, CA
51	McDaniel, Melody	03-3226 (03-2710)	ND Miss.	Y	Theodosia, MO	Unknown	Ava, MO	Unknown	Theodosia, MO	Springfield, MO
52	McKinney, Junior	04-806 (04-399)	SD Miss.	Y	Boaz, AL	Boaz, AL	Boaz, AL	Unknown	Birmingham, AL	Birmingham, AL
53	Miles, Judith (Included on 10-01- 04 List A)	03-0225	SD NY	N	Mt. Pleasant, MI	Mt. Pleasant, MI	Mt. Pleasant, MI	Mt. Pleasant, MI	Mt. Pleasant, MI	Mt. Pleasant, MI
54	Mitchell, Valgera	03-3287 (03-2486)	SD Miss. (04-399)	Y	Mobile, AL	Mobile, AL	Unknown	Mobile, AL	Mobile, AL	Mobile, AL
55	Mobley, John	04-805 (04-399)	SD Miss.	Y	Lower Peachtree, AL	Lower Peachtree, AL	Thomasville, AL	Lower Peachtree, AL	Lower Peachtree, AL	Selma, AL
56	Montgomery, Rebecca	04-1119	D Minn.	N	Bridge City, TX	Bridge City, TX; or Port Arthur, TX	Bridge City, TX	Bridge City, TX	Bridge City, TX	Bridge City, TX
57	Moos, Vergil	03-0243	WD Pa.	N	Walhalla, ND	Walhalla, ND	Devil's Lake, ND; Wahalla, ND	Unknown	Devil's Lake, ND	Devil's Lake, ND
58	Mozingo, Barbara	03-3297 (03-2486)	SD Miss.	Y	Rockingham, NC	Rockingham, NC	Rockingham, NC	Unknown	Hamlet, NC	Rockingham, NC
59	Murphy, Francine	04-1120	D Minn.	N	Louisville, KY	Louisville, KY	Louisville, KY	Unknown	West Point, KY	Louisville, KY
60	Norwood, George	01-2098	WD La.	N	Ragley, LA	Ragley, LA	Unknown	Unknown	Walton, TX	Beaumont, TX
61	Odom, John	03-402	SD Ala.	N	W. Palm Beach, FL	Lillian, AL	Gulf Breeze, FL	Lillian, AL	Lillian, AL	Mobile, AL;
62	Oliver, Paul	03-3227 (03-2710)	ND Miss.	Y	Montrose, AR	Montrose, AR	Hamburg, AR; or Magee, AR	Montrose, AR	Montrose, AR	Foley, AL; and Pensacola, FL
63	Patrick, Geraldine	04-772 (04-399)	SD Miss.	Y	Monroeville, AL	Monroeville, AL	Monroeville, AL	Monroeville, AL	Monroeville, AL	Monroeville, AL

Exhibit A

#	Case Name	Mot. I	Transferred Court	Entered Court	Plaintiff's Current Residence	Defendant's Current Residence	Reported to Court Date	Court Case Number	Location	Filing Location	Treatment Conditions
64	Peterson, Brenda	03-0459	WD Pa.	N	St. Louis, MO	St. Louis, MO	St. Louis, MO	St. Louis, MO	St. Louis, MO	St. Louis, MO	St. Louis, MO
65	Pringle, Matie	03-0464	WD Pa.	N	Meridian, MS	Meridian, MS	Meridian, MS	Meridian, MS	Meridian, MS	Meridian, MS	Meridian, MS
66	Reeder, Jeffery	03-2159 (02-0363)	ED NY	Y	Jamestown, KY	Jamestown, KY	Jamestown, KY	Jamestown, KY	Louisville, KY	Louisville, KY	Louisville, KY
67	Ritchie, James	03-0461	WD Pa.	N	Elkhart, IN	Elkhart, IN	Elkhart, IN	Elkhart, IN	Elkhart, IN	Elkhart, IN	Elkhart, IN
68	Robinson, Danny	04-0749 (04-0399)	SD Miss.	Y	Arlington, AL	Arlington, AL	Thomasville, AL	Thomasville, AL	Arlington, AL	Mobile, AL Thomasville, AL	Mobile, AL Thomasville, AL
69	Robinson, Ronnie	04-2833	SD Minn.	N	Lineville, AL	Ashland, AL	Oxford, AL	AL	Ashland, AL	Ashland, AL	Ashland, AL
70	Rodriguez, Selia Luz	03-1437	ND Tex.	N	MacAllen, TX	Detroit, MI	Detroit, MI	DET	Detroit, MI	Detroit, MI	Detroit, MI
71	Rogers, Delta	04-750 (04-399)	SD Miss.	Y	Lower Peach Tree, AL	Lower Peach Tree, AL	Lower Peach Tree, AL	Lower Peach Tree, AL	Lower Peach Tree, AL	Lower Peach Tree, AL	Selma, AL
72	Salter, Rebecca	03-3300 (03-2486)	SD Miss.	Y	Westumples, AL	Deatsville, AL	Unknown	AL	Wetumples, AL	Montgomery, AL	Montgomery, AL
73	Salvaggio, Ray	03-3281 (03-2486)	SD Miss.	Y	Metairie, LA	Metairie, LA	Mail sample	Metairie, LA	Metairie, LA	New Orleans, LA	New Orleans, LA
74	Schabbing, Beulah	03-0451	WD Pa.	N	Delphos, OH	Delphos, OH	Delphos, OH	Delphos, OH	Delphos, OH	Delphos, OH	Van Wert, OH
75	Sewell, Lula	04-775 (04-399)	SD Miss.	Y	Lower Peach Tree, AL	Lower Peach Tree, AL	Thomasville, AL	Lower Peach Tree, AL	Lower Peach Tree, AL	Lower Peach Tree, AL	Thomasville, AL
76	Sprinkle, Sandy (Included on 10-01- 04 List A)	03-0238	ED Pa.	N	Neillsville, WI	Menilaw, WI	Neillsville, WI	WI	Neillsville, WI	Hatfield, WI	Neillsville, WI
77	Steenkist, Alex	03-843	D Minn.	N	Hamilton, Ontario	Corbin, KY	Corbin, KY	Corbin, KY	Corbin, KY	Corbin, KY	Corbin, KY
78	Storms, Robert Jr.	03-2160 (02-0363)	ED NY	Y	Corbin, KY	Greenville, MS	Detroit, MI	Detroit, MI	Detroit, MI	Detroit, MI	Detroit, MI
79	Swift, Minnie	04-0838 (04-710)	ND Miss.	Y	Phenix City, AL	Phenix City, AL	Unknown	Phenix City, AL	Phenix City, AL	Phenix City, AL	Phenix City, AL
80	Taylor, Deborah	03-3221	SD Miss.	Y	Phenix City, AL	Corbin, KY	Corbin, KY	Corbin, KY	Corbin, KY	Corbin, KY	Corbin, KY
81	Taylor, Doris	03-2916 (03-2463)	ND Ala.	Y	Goldsboro, NC	Goldsboro, NC	DET	DET	DET	DET	DET
82	Todd, Robert	04-1000 (04-399)	SD Miss.	Y	Birmingham, AL	Unknown	Birmingham, AL	AL	Birmingham, AL	Birmingham, AL	Birmingham, AL

Exhibit A

Case Name	MJN #	Father's Cell#	Sister's Cell#	Plaintiff's Current Residence	Residence at Injury	Purchase Location	Ingestion Location	Victim Location	Treatment
83 Trent, Wilson J. Jr.	03-3474	D Minn.	N	Houston, TX	Lake Charles, LA	Lake Charles, LA	Lake Charles, LA	Lake Charles, LA	
84 Tyson, Della (deceased, but suit not captioned as such)	04-1016 (04-399)	SD Miss.	Y	Butler, AL	Butler, AL	Unknown	Unknown	Butler, AL	Unknown
85 Upton, Mitchell	04-753 (04-399)	SD Miss.	Y	Southside, AL	Southside, AL	Gadsden, AL	AL	Gadsden, AL	Gadsden, AL
86 Welch, Mary	04-755 (04-399)	SD Miss.	Y	Lower Peachtree, AL	Lower Peachtree, AL	Thomasville, AL	Lower Peachtree, AL	Thomasville, AL	Lower Peachtree, AL
87 West, David	02-1764	MD La.	N	Charlotte, NC	Queens, NY	Hollis, NY	Queens, NY	Queens, NY	New York, NY; Queens, NY
88 White, David	03-3288 (03-2486)	SD Miss.	Y	Daphne, AL	Daphne, AL	Spanish Fort, AL or Fairhope, AL	Unknown	Daphne, AL	Mobile, AL
89 Williams, Evelyn E.	03-3876	ND Fla.	N	Biloxi, MS	Biloxi, MS	Bamburg, SC	Biloxi, MS	Biloxi, MS	Bamberg, SC
90 Wilson, Dorothy	03-2265 (03-2482)	SD Miss.	Y	Jayess, MS	Fort Worth, TX	North Richland Hills, TX	Fort Worth, TX	Fort Worth, TX	North Richland Hills, TX
91 Young, Lashonne	03-3112	SD Miss.	N	Mobile, AL	Mobile, AL	Mobile, AL	Mobile, AL	Mobile, AL	Mobile, AL
92 Young, Reginald	04-1017 (04-399)	SD Miss.	Y	Reginald Young is deceased. The person holding an alleged "durable power of attorney," Stephanie Apkins, lives in Dixon Mills, AL	Sweetwater, AL	Unknown	Unknown	Malinosh, AL	Unknown